

**REMARKS**

Applicant has carefully studied the Final Office Action of September 9, 2010 and offers the following remarks in response thereto. Written description support for the amendments appear in the specification as originally filed, for example, at paragraphs 8, 13, 15-16, 20-22, 26-28, 31, 33, 38, 40, 44-46, 48, 51, 69, and 77-78. Applicant respectfully requests reconsideration of the pending claims in view of the amendments above and the following remarks. No new matter is added.

**Examiner Interview**

Initially, Applicant wishes to extend his gratitude to Examiner Liu for participating in the interviews held on Thursday September 22, 2011 and Monday October 3, 2011, in which Chris Vanderlaan and Joel Couenhoven participated. Proposed amendments to claims 1-17 and 46 and new claims 47 and 48 were discussed. Although no agreement was reached regarding patentability of the proposed amendments to claims 1-17 and 46 and new claims 47 and 48, Applicant appreciates the input provided by the Examiner and has taken that into account in further refining the amendments to claims 1-17 and 46 and new claims 47 and 48 discussed in the interview. As such, further amendments to claims 1-5, 7-9, 15, 17, and 46 are included in the amendments above. Applicant submits that claims 1, 45 and 46 now define subject matter that both meets the statutory requirements and is patentable over the references of record. The Examiner is invited to discuss the claims

further with Applicant's representatives if the Examiner feels that would be helpful in advancing prosecution on the merits.

**Rejection Under 35 U.S.C. § 101 – Claim 46**

Claim 46 presently stands rejected under 35 U.S.C. § 101 as allegedly being drawn to non-statutory subject matter. Without acquiescence in the grounds of rejection, but merely to expedite prosecution, Applicant has amended the method steps of claim 46 to recite a “host computer” associated with each of the steps similar to the Examiner's recommendation (Office Action dated September 9, 2010, pp. 12-13). It is respectfully submitted that these amendments render the § 101 rejection moot.

**Rejection Under 35 U.S.C. § 112(2) – Claims 1-17, 45 and 46**

Claims 1-17, 45 and 46 presently stand rejected under 35 U.S.C. § 112(2) as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner states that the structural elements for claims 1-17 are unclear and raises objections as to certain specific terms used in claims 1, 45, and 46. Without acquiescence in the grounds of rejection, Applicant has amended the claims to overcome this rejection.

The Examiner stated with respect to claims 1-17, that “it is unclear what the structure elements are.” Applicant has amended claim 1 to more clearly

identify the structural elements such as a “main computer” and a “non-transitory storage medium” that are configured in a specified manner.

With respect to claims 1, 45, and 46, the Examiner states that the meaning of “each indentified with a different specific undeveloped creative work” is unclear. Applicant has amended claim 1 to recite “each work-specific controlled escrow account being identified with a different specific undeveloped creative work.” Applicant has amended claims 45 and 46 in a similar manner. The Examiner also states that “it is unclear how each of the escrow account is ‘identified’ with a different specific undeveloped creative work.” Applicant notes that data stored on the “main computer,” such as the “accounting data 172” (paragraphs 44 and 78), would identify a particular work-specific controlled escrow account as being associated with a particular undeveloped creative work.

The Examiner also states that claims 1, 45, and 46 are indefinite for having more than one possible meaning and interpretation based on the recitation of “from among”. Again without acquiescence in the grounds of rejection, Applicant has amended claim 1 to recite that “said main computer is configured to automatically aggregate monetary amounts in a work-specific controlled escrow account, the work-specific controlled escrow account selected from among one or more work-specific controlled escrow accounts maintained on said storage medium, each work-specific controlled escrow account being identified with a different specific undeveloped creative work, for use in development of the specific undeveloped creative work.” Applicant has

amended claims 45 and 46 in a similar manner. It is respectfully submitted that this particular indefiniteness rejection is overcome thereby.

Further regarding claims 1, 45 and 46, the Examiner states that the claims are unclear based on the recitations of “pertaining thereto,” and “a correlation between.” Again without acquiescence in the basis of these rejections, Applicant has amended claim 1 to recite “the specific undeveloped creative work associated with the work-specific controlled escrow account” to address the issue raised by the Examiner with respect to the “pertaining thereto” language. Applicant has amended claims 45 and 46 similarly. Applicant respectfully submits that the amendments to claims 1, 45, and 46 clarify that the “correlation between each work-specific controlled escrow account, the specific undeveloped creative work associated with the work-specific controlled escrow account, and the patron information associated with each specific undeveloped creative work” is a specific correlation between a particular work-specific controlled escrow account, a particular undeveloped creative work, and the patrons that have sponsored the particular undeveloped creative work (see Specification, paragraphs 8, 13, 21-22, 28, 31, 44-45, 48, and 78). Additionally, the invention permits multiple correlations between a patron and different undeveloped creative works. For example, a single patron can sponsor multiple different undeveloped creative works (Specification, at paragraph 43), such that there would be one correlation (e.g., on the storage medium) for each instance of the patron sponsoring a different undeveloped creative work.

Claims 1, 45 and 46 presently stand rejected under 35U.S.C. § 112(1) as allegedly failing to comply with the written description requirement. The Examiner states that “automatically aggregating monetary amounts reflected by said remote user requests in an work-specific controlled escrow account on said host computer, from among one or more work-specific controlled escrow accounts maintained on said host computer each identified with a different specific undeveloped creative work’ and ‘whereby records stored on said host computer maintain a correlation between each work-specific controlled escrow account, the specific undeveloped creative work pertaining thereto, and the patron information associated with each specific undeveloped creative work’ are new matter not described in the original specification.” This rejection is respectfully traversed.

Applicant respectfully submits that written description support for the above limitations can be found in the specification as originally filed, for example, at paragraphs 16, 20, 26, 27, 33, 38, 40, 44, 46, 69, 77, and 78. Specifically, claim 1 recites “automatically aggregates monetary amounts in a work-specific controlled escrow account” which is supported at least by the following paragraphs:

[0020] All payments received by the computerized system are preferably placed into a **special (e.g., escrow) account specifically designated for the creative work**. As noted, electronic records are maintained by the operator of all patrons, the amount of the purchase, the benefit purchased, and other

such information as may be needed to identify the patron at the time the benefit becomes available.

\* \* \*

[0033] In connection with the creation of a new data record associated with the work, the works manager 160 may create a data structure which will permit the later association of additional information with the new work. For example, the works manager 160 may create a data structure which will serve later to store patron data, accounting data, and update information, all associated in some fashion with the new work being added.

\* \* \*

[0044] With each added patron, or periodically, **the accounting and security engine 163, or some other functional component of the main computer system 104, may update the total accrued monetary amount from patrons associated with a particular work.** The updated monetary information may, for example, be stored as part of the accounting data 172 associated with the various works data records 170. The accounting data 172 may also, for example, include information pertaining to access to any portion of the accrued monetary amounts on a going forward basis. **Monies collected via the computer system 104 may be placed in, e.g., an escrow account.**

\* \* \*

[0069] Collected funds are processed by, transmitted to, and/or tracked by the main computer system 204, **which stores such information in the accounting data 272 associated with the sponsored work.**

\* \* \*

[0077] When the patron decides the purchase the benefit(s) associated with the work(s) being sponsored, the patron transmits

the request to the main computer system. The request preferably identifies the patron and work, and provides a credit card account number, or other means of payment, that will be charged for the purchase. Upon receipt of the request, **the automated or semi-automated computer system records all appropriate information provided by the purchaser** and charges the credit or debit card account, or applies the other means of payment specified by the patron. Information about the patron is preferably incorporated in the data base at the main computer system site. The computer system may, if desired, transmit a confirmation to the patron. Using the information collected from patrons during transactions, the computer system develops a contact list that may be used to keep the patron informed of the sponsored work's progress.

[0078] **The funds** received from the transactions to sponsor the work, and acquire pre-purchased benefits as a result thereof, **may be deposited into, e.g., an escrow account that is specifically designated to be the repository for the funds dedicated to the specific work**. In the event that the work does not attract sufficient funds as the result of benefit purchases by patrons, the creator may solicit funds from conventional sources to fund the gap between accrued benefit pre-purchases and the amount needed to produce, develop, and/or market the work, or may offer the patron a benefit associated with another different work, or may refund the collected funds to the patron. When sufficient funds have accrued, they may be disbursed to the creator, preferably on an as needed basis, in order to support the work and to ensure the development, distribution, promotion, publication, and/or exhibition of the work.

Written description support for amended claim 1, including the following:  
“the work-specific controlled escrow account selected from among one or more work-specific controlled escrow accounts maintained on said storage medium each work-specific controlled escrow account being identified with a different specific undeveloped creative work,” is supported at least by the subsequent paragraphs of the Specification:

[0016] Once information concerning the proposed creative work is posted in a publicly accessible manner on the computerized system, prospective patrons may view the information by any appropriate means. For example, prospective patrons may use a browser program to view web pages containing the information served from the website managed by the computerized system. Alternatively, if applicable, prospective patrons may interact with a remote computer or machine having the information locally stored thereon. The information posted may describe the general nature of the creative work and may, if applicable to the particular creative work, include information concerning plot lines, characters, and so on, in any level of detail deemed suitable by the creator. The information may also include audio and/or video elements, including, e.g., still pictures (such as, e.g., JPEG files), audio tracks (such as, e.g., MP3 files), and/or audio-visual presentations (such as, e.g., MPEG or .WAV files)--again depending upon the nature of the particular creative work. Prospective patrons are preferably provided with the **ability to browse through a number of different proposed creative works**, each of which is associated with a request for support. The computerized system may also make available information from past successfully produced creative works, to enhance credibility of the operator,



creator, or overall approach to supporting creative works. The prospective patron is preferably provided with an opportunity to support the proposed creative work by pre-purchasing a benefit, which may be redeemed at a later time.

\* \* \*

[0020] All payments received by the computerized system are preferably placed into a **special (e.g., escrow) account specifically designated for the creative work**. As noted, electronic records are maintained by the operator of all patrons, the amount of the purchase, the benefit purchased, and other such information as may be needed to identify the patron at the time the benefit becomes available.

\* \* \*

[0040] If the user is not yet a sponsor, the user will generally select one of the categories 308 of creative works to explore further. Selection in this context may be carried out via any interactive means, such as a mouse, keyboard, voice input, etc., at the patron computer 107. Selecting one of the categories 308 may result in the user being presented with a list of creative works for potential sponsorship along with summaries or other information pertaining to the creative works. An example of a screen image 400 listing a variety of films for potential sponsorship is illustrated in FIG. 4. In the example of FIG. 4, **four different creative works (films) are listed** and described for potential sponsorship. Selecting any of the films in the list may result in presentation of another screen image 500 (see FIG. 5) to the potential patron, this one identifying the nature of the benefit, or benefits 503, available to sponsors of the creative work, along with further information concerning the sponsorship process.

Claim 1, as amended, further includes the following language: “whereby records stored on said storage medium maintain a correlation between each work-specific controlled escrow account, the specific undeveloped creative work associated with the work-specific controlled escrow account, and the patron information associated with each specific undeveloped creative work,” which is supported by, e.g., the following paragraphs of the Specification:

[0020] All payments received by the computerized system are preferably placed into a special (e.g., escrow) account specifically designated for the creative work. As noted, **electronic records are maintained by the operator of all patrons, the amount of the purchase, the benefit purchased, and other such information** as may be needed to identify the patron at the time the benefit becomes available.

\* \* \*

[0033] In connection with the creation of a new data record associated with the work, the works manager 160 may create a data structure which will permit the later association of additional information with the new work. For example, the works manager 160 may create **a data structure which will serve later to store patron data, accounting data, and update information, all associated in some fashion with the new work** being added.

\* \* \*

[0038] The interactive software routine triggered by the selection of the request benefit 152 option also preferably handles the receipt of the requisite monetary amount from the patron. To this end, the interactive software routine may invoke a payment processor 164, via the accounting and security engine 163, which functions to receive and process a monetary payment from the patron. The

payment processor 164 may support any method of payment deemed suitable by the operator of the main computer system 104. For example, the payment processor 164 may permit payment by credit card, debit card, smart card, e-purse, or any other available means. Upon confirmation of the completed transaction by the payment processor 164, **the accounting and security engine 163 may facilitate addition of the patron's information to the patron data 171 for the works record associated with the particular work being sponsored by the patron.** At the same time, the patron transaction handler 120 may be informed of the successfully completed transaction, and may inform the patron that he or she has been accepted as a patron for the particular work. The patron transaction handler 120 may also, or subsequently, provide information as to the future redemption of the benefit purchased by the patron.

\* \* \*

[0044] With each added patron, or periodically, **the accounting and security engine 163, or some other functional component of the main computer system 104, may update the total accrued monetary amount from patrons associated with a particular work.** The updated monetary information may, for example, be stored as part of the accounting data 172 associated with the various works data records 170. The accounting data 172 may also, for example, include information pertaining to access to any portion of the accrued monetary amounts on a going forward basis. **Monies collected via the computer system 104 may be placed in, e.g., an escrow account.**

\* \* \*

[0069] Collected funds are processed by, transmitted to, and/or tracked by the main computer system 204, **which stores such**

**information in the accounting data 272 associated with the sponsored work.**

Applicant respectfully requests that the Examiner remove the 112 rejections of claims 1-17, 45, and 46.

**Claim Rejections – 35 U.S.C. § 103(a)**

Claims 1 – 17, 45 and 46 presently stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent publication 2004/0015427 (Camelio) in view of U.S. Patent 7,003,493 (Weichert), U.S. Patent publication 2002/0198763 (Pittelli), U.S. Patent 6,792,411 (Massey), and "Electronic Commerce and the Street Performer Protocol" (Kelsey). This rejection is respectfully traversed.

Claim 1 relates to a computerized system for facilitating the creation and promotion of creative works, comprising (as amended) the following system components:

a main computer configured to provide information about specific undeveloped creative works seeking financial sponsorship to remote user-interactive devices for display, said undeveloped creative works including motion picture works, wherein said information concerning the undeveloped creative works includes a plot description of at least one of the undeveloped motion picture works;

receive and process requests for purchases of benefits relating to a specific undeveloped creative work, said requests received in electronic messages transmitted over a wide area electronic network; and

a non-transitory storage medium associated with said main computer configured to store patron information received from a remote user and associate the patron information with the specific undeveloped creative work selected by the user;

wherein said main computer is configured to automatically aggregate monetary amounts in a work-specific controlled escrow account, the work-specific controlled escrow account selected from among one or more work-specific controlled escrow accounts maintained on said storage medium, each work-specific controlled escrow account being identified with a different specific undeveloped creative work, for use in development of the specific undeveloped creative work, and to release all or a portion of the aggregated monies when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work, whereby records stored on said storage medium maintain a correlation between each work-specific controlled escrow account, the specific undeveloped creative work associated with the work-specific controlled escrow account, and the patron information associated with each specific undeveloped creative work;

to provide viewing access for the artist associated with developing the undeveloped creative work to the monetary amount in the

work-specific controlled escrow account through an electronic connection from an administrative or remote computer to the main computer; and

to facilitate electronic notification of patrons associated with the specific undeveloped creative work concerning availability of their purchased benefits, or upon the condition that the predefined target threshold amount is not attained, through messages transmitted over said wide area electronic network.

Claims 45 and 46 contain many overlapping features as claim 1. Claim 45 pertains to a computerized system, and claim 46 pertains to a method. While Applicant focuses on claim 1 below, similar comments are generally applicable to claims 45 and 46 unless otherwise specified.

Claim 1 recites, among other things, that “said main computer is configured... to release all or a portion of the aggregated monies when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work.” Thus, according to claim 1, the funds in an escrow account are designated expressly for development of a specific undeveloped creative work and, upon obtaining a threshold level of funds in the escrow account, an artist is able to use the obtained funds for the development of the specific undeveloped creative work (e.g., and does not need to rely solely on the artist’s own funds). Individually and collectively, these features provide significant improvements over the art, including protections for the interests of patrons who support the specific undeveloped creative

works by allowing a threshold level of funding to be collected prior to the release of funds, and prior to completion of the work, and hence greater trustworthiness and appeal to patrons.

As described in connection with embodiments in the Specification, Applicant's system is for the development of creative works where "[a]ll payments received by the computerized system are preferably placed into a special (e.g., escrow) account specifically designated for the creative work" (Specification at [0020]) and "[w]hen sufficient funds have accrued, they may be disbursed to the creator, preferably on an as needed basis, in order to support the work and to ensure the development, distribution, promotion, publication, and/or exhibition of the work". (Specification at [0078]) This operation has an advantage particularly for larger or more expensive creative works, such as movie productions, allowing the work can be commenced once a threshold level of funds have been raised, providing a secure investment for a patron, and a usable source of funds for "[i]ndependent creators of creative works without ready access to other sources of funds" who may "benefit from a system or method which allows patrons to support their creative works." (Specification at [0082])

Additionally, as described in the Specification: "[A]s more patrons sponsor a particular work, the accrued monetary amount associated with that work will reach a desired target level... Preferably, release of funds is controlled by a security interface which prevents unauthorized access to the funds. The accounting and security engine 163 may be given the responsibility of ensuring

that only authorized disbursements of the accrued funds are made.... The creator may then use the transferred funds in connection with creation of the work.... The access funds or refund 144 selection may, in the present example, also be used to refund sponsorship monies received from patrons should the target sponsorship level not be reached..." (Specification at [0045-0047])

Camelio, in contrast, teaches that "a musical artist (for example) having an idea for creating a new musical work 501 [] registers with ArtistShare and obtains an artist account 502 so that he may raise the capital for financing the new work through his current and future fans." (Camelio at para. [0108]) Further, Camelio teaches that "capital from the interested party [is provided] to an escrow account for the author" (Camelio at claim 4) and "upon completion of the project and upon the patron receiving the entitlement(s) corresponding to the patronage level, the capital in the escrow account is turned over to the artist." (Camelio at para. [0144]) Camelio does not teach that the artist has access to the funds "to facilitate completion of the specific undeveloped creative work," but rather that the capital in the escrow account is provided to the artist "upon completion of the project and upon the patron receiving the entitlement(s)". Thus, the system of Camelio requires that artists fund creative works entirely on their own until the creative work is completed, which is disadvantageous for more expensive works such as movies. Indeed, Camelio focuses primarily on less expensive works such as songs and music.

Weichert does not provide that which Camelio is lacking. Weichert discloses "a method for transferring funds from a sender to one or more



recipients using a wide-area computer network.” (Weichert at Abstract) Weichert does not have any relation to a system for the development of creative works, and hence is not in a field pertinent to the instant invention. In any event, Weichert states that: “A transfer can happen as funds are received or according to some periodicity. Funds can be held in the account until a threshold amount is crossed that would trigger an automated payout.” (Weichert at col. 13:43-46) Weichert does not provide teachings concerning a “work-specific controlled escrow account” of the nature contemplated by and claimed in claims 1, 45 or 46. Additionally, Weichert does not teach associating an escrow account with a specific undeveloped creative work or that the funds in the escrow account are designated for use in developing the specific undeveloped creative work.

Neither Camelio nor Weichert contain any suggestion or motivation to release funds when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work, prior to completion of the work. Camelio teaches against such a combination because of the teachings that “upon completion of the project and upon the patron receiving the entitlement(s) corresponding to the patronage level, the capital in the escrow account is turned over to the artist.” (Camelio at para. [0144]) Even if, however, one were to attempt to combine Camelio with Weichert, the combined system would, at best, release funds automatically upon *completion* of the project. The artist would still have to initially fund the work completely on his own until it was completed, a disadvantage for large projects. The funds

would only be available to an artist for a different project rather than a specific undeveloped creative work associated with an escrow account.

Pittelli does not provide that which Camelio and Weichert, alone or in combination, are missing. Pittelli discloses “a method and a system to determine a market need before any monies are spent to produce and commercialize an artist.” (Pittelli at Abstract) The system disclosed in Pittelli allows “consumers to financially contribute towards the development and commercialization of an artist of their choice.” (Pittelli at para [0019]) Additionally, “[o]nce these eligible artists obtain a predefined number of financial supporters, at 220, with each supporter contributing a predefined amount, the fund containing the consumer contributions... becomes available for use for the benefit of the artist, at 225. The fund can then be used, at 230, on behalf of the artist to produce and commercialize the artist... if the artist meets a predefined set of milestones, the artist can withdraw the fund and use it in any manner he or she sees fit.” (Pittelli at para. [0030]) Pittelli does not disclose an account associated with a specific undeveloped creative work, but rather accounts associated with artists. Additionally, Pittelli does not teach that funds are released from an account when a predefined threshold amount is attained where the funds are used to facilitate the completion of the specific undeveloped creative work.

Neither Camelio nor Pittelli contain any suggestion or motivation to release funds when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work. Even if,

however, the teachings of Camelio and Pittelli were somehow combined, the combined system would, at best, release funds to an artist after the artist obtained a predefined number of financial supports, instead of after attaining a predetermined target threshold amount of funding as claimed. The funds provided to the artist would then be available for use on any project the artist desired to develop instead of a specific undeveloped work associated with the funds.

Massey does not provide that which Camelio, Weichert, and Pittelli, alone or in combination, are missing. Massey discloses a “method for funding the production of a movie by... allowing interested potential viewers of the movie to purchase a share of the production company's stock prior to production of the movie.” (Massey at Abstract) The stock is purchased directly from the production company and the funds raised by the sale of the stock are provided directly to the production company: “[o]ne of the methods of payment for the stock is via credit card, and the production company must therefore be in compliance with all federal and state requirements for engaging in the electronic transfer of funds over the Internet, as well as in compliance with applicable regulations governing the sale of securities (i.e., ‘stock’).” (Massey at col. 4:20-26) Massey does not disclose the use of an escrow account associated with a specific undeveloped creative work, releasing funds from an escrow account upon attaining a predefined target threshold, or use of the funds from the escrow account for development of the specific undeveloped creative work.

Neither Camelio nor Massey contain any suggestion or motivation to release funds when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work. If, however, the teachings of Camelio and Massey were combined, the combined system would provide funds to the production company directly at the time stock options for a movie are purchased instead of after attaining a predetermined target threshold amount of funds as claimed. The combined system would not store funds in a work-specific controlled escrow account or allow a patron to view and contribute to multiple undeveloped creative works but only a single movie.

Kelsey does not provide that which Camelio, Weichert, Pittelli, and Massey, alone or in combination, are missing. Kelsey discloses that “people would place donations in escrow, to be released to an author in the event that the promised work be put in the public domain.” (Kelsey at Abstract) “If enough readers want to see the next chapter, they can make a payment... The publisher holds the payments in escrow until the chapter is released, and then sends the author his cut.” (Kelsey at p. 5) Kelsey discloses the release of funds after a work is completed such that an author has released their work to the public domain. Kelsey does not disclose the release of funds to a producer, artist, or creator upon attaining a predefined target threshold of funds where the funds are used to facilitate completion of the specific undeveloped creative work.

Neither Camelio nor Kelsey contain any suggestion or motivation to release funds when a predefined target threshold amount is attained to

facilitate completion of the specific undeveloped creative work. If, however, the teachings of Camelio and Kelsey were combined, the combined system would provide funds to an author after the author provided a completed work to the public domain, rather than providing funds to an author for use in completing an undeveloped creative work.

The Office Action further asserts that the type of escrow account being used, and specifically a “work-specific controlled escrow account,” is “merely non-functional descriptive material.” (Office Action, pp. 6-7) Elsewhere, the Office action states that terms like “for use in development of the specific undeveloped creative work” are statements of intended use that do not result in a “structural difference” and do not have patentable weight. (Office Action, p. 9)

However, despite the characterization as such, the “work-specific controlled escrow account” is more than a statement of “intended use” and rather imparts specific requirements on how to store data, how to organize the data, and the criteria for later triggering events (e.g., allowing access to the funds upon reaching a target threshold level). These limitations are built into the fabric of claims 1, 45 and 46, and manifest in the specific operations all geared around aggregating funds specific to individual creative works, and not, for example, generic artists. As the MPEP notes: “There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper.” MPEP § 2173.05(g).

Furthermore, the claims have been amended to clarify the relationship between a work-specific controlled escrow account, the creative work associated with the work-specific controlled escrow account, and patrons that are supporting the work-specific controlled escrow account. It is respectfully submitted that the recitals relating to the claims “work-specific controlled escrow account” would clearly carry patentable weight and impart meaningful structure under the applicable law and the provisions of the MPEP.

For example, the MPEP explains that “functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component.” MPEP § 2106.01. The MPEP further explains that “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” See MPEP § 2106.01, citing *In re Lowry*, 32 F.3d 1579, 1583-84, 32 U.S.P.Q.2d 1031, 1035 (Fed. Cir 1994) (discussing patentable weight of data structure limitations in the context of statutory claim to a data structure stored on a computer readable medium that increase computer efficiency) and *In re Warmerdam*, 33 F.3d 1354, 1360-61, 31 U.S.P.Q.2d 1754, 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim).

That is the case here. The specific data structures and programmed operations of claims 1, 45 and 46 are structurally and functionally interrelated

with the computer-readable medium (including the claimed “storage medium”) and carry patentable weight.

By way of example, claim 1 includes “a non-transitory storage medium associated with said main computer configured to store patron information received from a remote user and associate the patron information with the specific undeveloped creative work selected by the user.” This claim element expressly requires that patron information be stored on the storage medium and associated with a specific undeveloped creative work selected by the user. Claim 1 further requires that the main computer is configured to “automatically aggregate monetary amounts in a work-specific controlled escrow account, the work-specific controlled escrow account selected from among one or more work-specific controlled escrow accounts maintained on said storage medium, each work-specific controlled escrow account being identified with a different specific undeveloped creative work, for use in development of the specific undeveloped creative work, and to release all or a portion of the aggregated monies when a predefined target threshold amount is attained to facilitate completion of the specific undeveloped creative work, whereby records stored on said storage medium maintain a correlation between each work-specific controlled escrow account, the specific undeveloped creative work associated with the work-specific controlled escrow account, and the patron information associated with each specific undeveloped creative work.” These recitals further require that specific types of accounts and data structures be maintained and segregated on records stored on the storage

medium, in a manner correlating specific types of data together and dictate the fundamental operation of the computer system. These are tangible limitations that are integral to the invention as claimed.

In addition, it is noted that claim 46 is a method claim and may be subject to a different standard.

For all of the above reasons, individually and collectively, it is respectfully submitted that claims 1, 45, and 46 would not have been obvious in view of the cited items. Dependent claims 2-17, and 47-52 depend either directly or indirectly upon independent claims 1, 45 or 46, and thus should be allowable for at least the reasons given for claim 1.

In addition, further non-obvious differences are believed to exist between the dependent claims and the cited references. For example, claim 47 recites that "said main computer provid[es] information about the specific undeveloped creative work to a remote user-interactive device for display after receiving approval from an administrator of the main computer for the specific undeveloped creative work, wherein said approval indicates that the specific undeveloped creative work is suitable for being associated with requests for purchase of benefits relating to the specific undeveloped creative work." Claims 49 and 51 are similar to claim 47. Additionally, claim 48 recites that "said main computer facilitate[es] electronic notification of patrons associated with the specific undeveloped creative work after receiving authorization from a producer or creator associated with developing the specific undeveloped creative work, wherein said authorization indicates that said main computer is



permitted to electronically notify patrons associated with the specific undeveloped creative work.” Claims 50 and 52 are similar to claim 48. Applicant respectfully submits that the cited references do not disclose or render obvious the above limitations.

In sum, it is respectfully submitted that claims 1-17, 45 and 46 are non-obvious, and hence allowable over the cited references.

#### **Reservation of Right to Challenge Cited Items**

While Applicant has addressed the cited items on the merits, this should not be construed as an admission that they constitute prior art as against the claimed invention. Applicant reserves the right to antedate either of the cited patent publications pursuant to the appropriate rules, laws, and regulations if deemed necessary to do so.

Likewise, Applicant's election to address the cited patent publications on the merits should not be construed as an admission they provide an enabling disclosure. Applicant reserves the right to challenge the sufficiency of the cited items at a later point in time, including in any post-issuance proceeding or suit, if appropriate.

#### **Request for Allowance**

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any unresolved issue remains, the Examiner is

invited to contact the undersigned by telephone to discuss those issues so that the Notice of Allowance can be mailed at the earliest possible date.

It is believed that the instant application is in condition for final allowance, and, accordingly, issuance of a notice of allowance is earnestly solicited.

Respectfully Submitted,

Dated: October 10 , 2011

/Christopher A. Vanderlaan/  
Christopher A. Vanderlaan  
Registration No. 37,747

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